

## **MINUTES**

**CITY OF WARR ACRES  
REGULAR CITY COUNCIL MEETING  
TUESDAY  
MARCH 7, 2006  
7:00 P.M.**

1. The meeting was called to order at 7:00 p.m. Declaration of a quorum present was given. The Flag salute was lead by Chief Carter and the Invocation was given by Pastor David Brooks from Christ Legacy Church.

## **ROLL CALL**

### **PRESENT**

### **ABSENT**

Mayor Marietta Tardibono  
Vice-Mayor Nancy Olson  
Councilman Jimmy Alexander  
Councilwoman Leslie Owens  
Councilman Bob Wehba  
Councilman Rodney Nelson  
Councilman Barry Curl  
Councilman Jeff Martinez  
Councilman Stewart Shapiro

## **STAFF PRESENT**

Pam Ramirez, City Clerk  
Bob Jernigan, City Attorney  
Roger Patty, Police Chief  
Rob Carter, Fire Chief  
Mike Turman, City Inspector  
Scott Barrett, City Engineer  
Wiley Rice, Jr., City Planner

2. Presentation of 25 year service pin to Fire Captain David Bryant and a 5 year service pin to Officer Shane Clark.

The Mayor presented a 25 year service pin to Fire Captain David Bryant and a 5 year service pin to Officer Shane Clark.

3. Questions and Comments from Warr Acres Residents

Councilman Wehba addressed the council and public as a resident and said that when you sign an oath or any kind of paper people can come to you and say you

Mayor Tardibono informed the council and public that the Bethany\Warr Acres Public Trust was looking into operating a Waste Transfer Station and that more information would be presented to the Warr Acres Trust at a later date. She also thanked everyone for getting out and voting today on such a beautiful day.

4. **CONSENT DOCKET:** (individual items may be deleted from the consent docket for discussion and action under #5).

- F. Authorize Chief Patty to donate the two surplused Kustom Radars to the Arkansas/Oklahoma Railroad Police.

Motion by Curl, second by Alexander to approve items A, D and E of the consent docket. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Curl, yea; Martinez, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

5. Discussion and possible action on items removed from the consent docket.

Motion by Shapiro, second by Martinez to approve item B. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Curl, yea; Martinez, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

**Motion Passed Unanimously.**

Item C. Councilman Nelson wanted to know what the Court Clerk was purchasing that said tickets. Chief Patty said that it was their tickets. Clerk Ramirez stated that what he was asking about was in Item B on Item C and Item B had just been approved. Councilman Nelson stated that he was sorry and would like to reconsider the vote on Item B because of the claim for Jessie Simmons.

Motion by Nelson, second by Curl to reconsider item B because of the item to pay Jessie Simmons. Poll vote: Alexander, yea; Owens, nay; Nelson, yea; Wehba, yea; Curl, yea; Martinez, nay; Shapiro, nay; Olson, nay; and Tardibono, nay.

**Motion Failed.**

Motion by Owens, second by Olson to approve item C. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Curl, yea; Martinez, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

**Motion Passed Unanimously.**

Councilman Wehba said there was a minor faux pas here and if Items F and E could be rolled together. If they can do that then they can approve the surplus and the Chief can work out whatever remuneration is needed to keep us legal but he did not think they could be given to anyone. Chief Patty stated that they had no value but if the council wished to sell them for a dollar a piece he thought that could be arranged.

Motion by Wehba, second by Owens to approve item F with the Chief to sell the radars for a dollar a piece. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Curl, yea; Martinez, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

**Motion Passed Unanimously.**

6. Receive reports from Staff: Police, Fire, City Clerk, City Inspector, Street, Sanitation, Sewer, City Engineer, and City Planner.

Clerk Ramirez-told Councilman Wehba that she had mentioned his question about the possibility of the Trust helping the city when they have to fix sewer lines and it did not get a very warm reception but she did want to let him know that she did bring it up.

Councilwoman Owens-the clerk is to collect candidate forms or declarations of candidacy as set out in the City Charter and because of circumstances regarding these filing Mr. Jernigan met with all candidates and advised everyone that three people did not conform to the Charter requirements. She said that her concern is the City Clerk's ability to intervene to have the Charter set precedence over the County Election board. She said she thinks it is a concern when the city is losing its foot hold on the ability to enforce the Charter and the regulation of the Charter and the people that are supposed to comply with the Charter. Legally why can't our Charter, the one that specifies how candidates are declared eligible, why is the

Charter unable to be enforced in this situation. Attorney Jernigan stated that it can be, but Councilwoman Owens stated not by the city. He continued that it is a qualification issue and the way he reads the Statute qualifications are only challengeable by the other candidates. Councilwoman Owens asked if the city had no recourse to inform any other body that the Charter requirements are not met. Attorney Jernigan stated that according to the Election board it is referred to District Court and he tends to go with their thinking since they have years of experience. Councilwoman Owens said that the city does not have the ability to contest that just because it is our Charter that is not being upheld. Attorney Jernigan stated that if the Council wanted to approve litigation to determine that issue, say on a declaratory issue it could be done, but it would take Council action to proceed with litigation. Councilman Wehba asked if there had been any research done into whether the city relinquished its authority when they voted to allow the County to run the elections. Attorney Jernigan stated that there were emphatic that they only hold the election procedure itself. He said the challenge arises after the election if the defaulting candidate wins. Councilwoman Owens said before the results are known was a better time to bring the issue up.

Street Supervisor Dickson-said his department has been doing a lot of street patching in Wards 2 and 3 and also have been helping the mechanic. The Mayor thanked him and his staff for the help they have been giving the mechanic.

Mayor Tardibono-stated that she had the item for committee reports moved to the first meeting of the month since staff is present at that meeting and some of them are on committees.

Engineer Barrett-said he was still working on the left turn issue at 63<sup>rd</sup> and MacArthur for Councilman Martinez and had not yet gotten the numbers together for Councilman Nelson that he had requested. He said that the final number on Ann Arbor have been turned over to the auditors from the contractor. He said that Congressman Istook was helpful in getting the MacArthur project moving again. He said that the bid documents were ready for pick up at city hall for the Sewer Line video project.

Planner Rice-stated that he and Attorney Jernigan have met concerning the electronic sign Ordinance and would be getting something together to present to council.

7. Questions and comments from Council members.

Councilman Wehba stated that every time he has been in an election especially since 2000 he has noticed that the city lists suck. He stated that no matter what happens in today's election he is going to help Polly fix it so that the list, labels for mail outs, are more candidate friendly. Clerk Ramirez explained that those persons that have auto payment are on a separate list from the lists from each Ward. When Polly runs the billing she runs them by Ward but the ACH people are not included in that list of labels. Councilwoman Owens stated that the purpose is for Utility billing not for candidate data. Councilman Wehba said that when it is the only game in town they play it. The Mayor stated that they could

go to the County Election Board and get a list of registered voters. Councilman Wehba said that they think everyone is in OKC that Warr Acres does not exist.

8. Reports from Committees.

The Mayor asked if anyone had a report to give. No reports were given.

9. Report from Mike Crawford on the financial situation of the city and audit of FY 2004-2005 and discussion and possible action on acceptance of the FY 2004-2005 audit.

Mike Crawford stated that he was not really planning on going over the audit but wanted to let the council know where they stand currently. He did say if there were any questions about the audit he would answer them. He said that this year the report has something new added on page 9 which is probably the fast way to see what the financial situation is, how it changed and the financial ability for the future. He said that also broke down the ratings into financial position, (conditions at year end); financial performance, (how did the conditions change from prior year) and financial capability, (how much room do we have to generate more revenue). Its is not hard to see there is not a lot of positives there only when it comes to capability, and that shows that the city has a great deal of room to increase revenue, be it by utility increases, more tax increases, or borrowing money. All these ratios are on a scale of 10 and what this does is validate the need for the tax increase that was approved by the citizens. It shows how bad things were and the city has not gotten in enough sales tax yet from the increase to see just how much of an impact it will be. The report clearing shows why you took the action that you did in asking for the tax increase. Reserves are only about 2% of annual revenue and that is extremely low. The financial condition right now from a budgetary standpoint is weakened because of the \$750,000 asset of the General Fund that is in the Economic Development Authority as a loan. At some point and time when you sell the property or cash in the investment you have got to get that \$750,000 back into General Fund. Without that you only have \$90,000 of carryover. He said that when they are discussing what they are going to do with the property they need to keep that in mind that the city has to have that money back in the General Fund.

Mr. Crawford then started discussing the current conditions as of the end of February. He said that we are 67% through the year and revenue and expenditures are all at 67% which it is kind of unusual that it would be exactly the same. He said with the close out of the \$234,000 fund the city should be able to add to fund balance this year. He told the council to remember that without those funds the city would have spent more than they have taken in. He said that they should feel good that they are on track through 8 months. He then said that if anyone had questions he would answer them.

Councilman Wehba asked if when the property gets sold will the money go back automatically or if there are other expenses in the sell of the property would it come out of that money and if there was something formal that would put the money back. Mr. Crawford said that there is nothing formal but there could be a

note agreement formalized by the council and the authority to give a little more security that it will happen. Councilman Shapiro asked if it could be amortized over a number of years to be paid back and Mr. Crawford stated that it could. He said what they do not want to do is not pay it back you need to set up a payment plan some way with or without interest. Councilman Shapiro asked Attorney Jernigan what the legal issue is and Mr. Jernigan stated that he understands that it was just a gentleman's agreement and if he understands it right there is nothing wrong with a city financing its Economic Development Authority the only question is if you want to do it from a practical standpoint. This is something they will be discussing in the Economic development meeting. Councilman Shapiro said that giving the money back is a big deal to getting the financial ratio up even though the ability to raise revenue we have some work to do. The Mayor stated that she would like to commend Clerk Ramirez because she did the estimates of revenue and expenditures and she is right on track. Mr. Crawford said yes that is good especially with what the city has been through to be able to stay on track. Clerk Ramirez stated when everyone wants to spend and she says no she does not make anyone happy. The Mayor said she is not the bad guy and Mr. Crawford said no and with what the city has been through two very tough years but he feels the city is headed back in the right direction. He said again that when the city can get that \$750,000 back in the General Fund the better. Councilwoman Owens said well the source of that came from earmarked funds so we need to protect the source of where the funds came from and not just mingle it into the general budget. The Mayor said that if it had not been for the sales tax increase the city would be in dire straights right now. Mr. Crawford said there is no question about that, this report clearly supports that decision. Councilman Shapiro thanked Mr. Crawford for the performance ratios stating that it really makes it clear for anyone reading it. Mr. Crawford said that his firm had gotten really good response nationally to that. This will be even more valuable in future years because we will be able to compare against ourselves. Councilman Curl said that in all the years that he has been reading these reports that this is the best readable report he has ever seen.

Motion by Owens, second by Shapiro to accept the FY2004-2005 audit. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Curl, yea; Martinez, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

### **Motion Passed Unanimously.**

Councilman Wehba left the meeting at 7:55 p.m.

10. Discussion and possible action on a claim that was investigated by the city's insurance company OMAG and their recommendation is for denial.

Diana Davis stated that on Sunday, January 8<sup>th</sup> at about 10:00 a.m. they noticed water coming up and out of the manhole in their backyard. Within half an hour there was a gusher estimated at 150 gallons per hour. She said they made about a half dozen phone calls and could not get anyone to come out and help them with it. She said that it is estimated that 14 cubic yards of dirt eroded away from the hill and that the ground is still sewer laden. She said that they tried the city's

insurance and their personal home insurance and were denied from both. She said that she thought there was an issue about the line that runs through there the line runs behind the hill and now part of the hill is gone. Fixing the problem will be difficult because there is a creek on one side and a hill with their home and a narrow access at the top. The estimates she got had it being fixed one way but now they have come up with a better way of fixing it from the bottom and she thinks it will be less expensive. She said they think that whoever owns that sewer line should be concerned that the dirt is not there now to support it. She questioned how often the city checks the line. She said they pulled a small amount of debris from the line but she found it hard to believe that such a small amount of debris could have stopped up the line to where the water was gushing out the top. She said that she thought that maybe there was something wrong with the line that maybe part of it had collapsed and when they roto-rooted the line that it opened back up. She wondered if DEQ and the EPA were notified and asked for a copy of the report. She was told that they were notified. She questioned when the line was last checked because they mentioned to her that they could hear the water running through it and they should have been able to notice the water was not running. The letter from the city's insurance stated that they found no liability on the city's part and it sounds like Warr Acres is not responsible so she wondered if she needed to be working with the Bethany\Warr Acres Trust instead of the city. Councilman Martinez stated that he would like to continue the item until Mr. Seale could be there. The Mayor stated that Mr. Turman was fully aware of the situation and could answer any questions. Councilwoman Owens asked why there was not a provision on the agenda to discuss this item in executive session. Attorney Jernigan stated that it was just not placed on the agenda in that manner but that the council could continue the item and have an executive session.

Motion by Martinez, second by Nelson to continue the item to the next meeting on March 21, 2006. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Curl, yea; Martinez, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

**Motion Passed Unanimously.**

11. Discussion and possible action concerning property at 6612 NW 58<sup>th</sup> Terr. to take all necessary steps to abate code violations existing on the property including filing of litigation. \*Jernigan\*

Attorney Jernigan gave a report stating that he and Inspector Turman met with the property owner and his attorney and they are allowing 30 days to work out an arrangement.

Motion by Curl, second by Martinez to continue the item to the meeting on April 18<sup>th</sup>. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Curl, yea; Martinez, yea; Shapiro, out during the vote; Olson, yea; and Tardibono, yea.

**Motion Passed Unanimously.**

12. Discussion and possible action on a plan by Chief Carter to cut the corner of 49<sup>th</sup> and Reeves off in order to give the fire department a straight shot out of the station. \*Carter\*

Chief Carter thanked Johnny and his crew for the fine job they did on the street and new drive for the fire department. He stated that this idea of cutting the corner to give them a straighter shot out of the station would expedite the exiting and re-entering of the station. Councilman Nelson asked if he had taken this issue before the Traffic Commission. Chief Carter stated that he had not just wanted to throw the idea out there and see what the council thought before spending much time on plans or figuring cost. Councilman Nelson stated that he thought it should go to the Traffic Commission. Engineer Barrett stated that it did not need to go to them that he was who they should be talking to about the issue. It was decided that the staff would get together and look into the possibility.

**Item 13 was heard before item 4.**

13. Discussion and possible action on a proposal to contract with Millennium Financial Group to do collections of utility bills, tickets and warrants.

Motion by Wehba, second by Nelson to continue the item to the April 4<sup>th</sup> meeting.  
Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Wehba, yea; Curl, yea; Martinez, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

**Motion Passed Unanimously.**

The Mayor called a recess at 8:12 p.m.

The council returned to session at 8:19 p.m.

After the recess the Mayor announced the results of the election. Ward I: Barry Curl, 68; Bob Carter, 143; and Stan Street, 105. Ward II: Nancy Olson, 169; and Garry Stephens, 120. Ward II: One year term: Steward Shapiro, 192; and John Webster, 88. Ward III: Leslie Owens, 130; Jimmy Bullen, 38; and Walter Johnson 106. Ward IV: Bob Wehba, 101 and Mike Gossman 119. And on the Charter Change Proposition: 718, NO; and 288, YES.

The Mayor announced that when the swearing-in ceremony would be and Mr. Jernigan stated that it would depend on when the term ends. He stated that everyone is elected for a two year term and if someone were sworn-in in the latter part of the cycle then their term runs from that two year period. So they will have to take a look and see when the predecessor was sworn-in. It was a change that the council adopted without changing other aspects of it, it reads that if elected the term of the predecessor is for two years so it does not expire until two years from the date he was sworn-in and you can't cut that short by a subsequent election. When the Charter got away from the unified swearing-in in May then you now have staggered terms. An example is that Mr. Curl was sworn in after he won the primary two years ago, but since there is a run-off his term will continue until the



run-off is determined. The Charter was changed but not in all places. The Mayor stated that a date for a ceremony will be determined later.

14. Discussion and possible action on overtime. \*Wehba\*

Clerk Ramirez stated that Councilman Wehba had asked for this item to be continued to this meeting so that if anyone wanted to deal with it do in now or shut up about it.

Councilman Nelson made a motion to do nothing. No action was taken on this issue and died for lack of action.

15. A. Discussion and possible action on an Ordinance amending 10.32.200  
Child passenger restraint system required for certain vehicles—  
Exemptions.

B. Approval of the emergency clause.

Chief Patty stated that the state legislature changed the law and the city needed to amend the code to be in compliance with the state. Chief Patty stated that he was fine with the wording of this Ordinance. Councilwoman Owens asked what number this Ordinance would be and the Clerk stated that it would be #1015.

Motion by Martinez, second by Owens to approve ordinance 1015. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Martinez, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

**Motion Passed Unanimously.**

Motion by Owens, second by Alexander to approve the emergency clause. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Martinez, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

**Motion Passed Unanimously.**

16. Discussion and possible action on approval of merit increases for March pursuant to Title 2, Section 2.36.025, for Lilia Castillo, Hector Farea, Kevin Smith, Bradley Seale, and Dustin Gordon.

The question was asked if these increases were budgeted for and the answer was yes and also if this was the recommendation of the Mayor and again the answer was yes.

Motion by Owens, second by Martinez to approve the merit increases. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Martinez, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

**Motion Passed Unanimously.**

17. Any Old or New Business (“New Business” is defined by the Open Meeting Act as any matter not known about or which could not have been reasonably foreseen prior to the time of posting of the agenda of a (“surprise nature”)).

**Moot.**

17. Adjournment.

Motion by Martinez, second by Shapiro to adjourn. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Martinez, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

**Motion Passed Unanimously.**

The meeting was adjourned at 8:31 p.m.

Respectfully submitted,

Pamela McDowell-Ramirez  
City Clerk

## **MINUTES**

**CITY OF WARR ACRES  
PUBLIC WORKS AUTHORITY MEETING  
TUESDAY  
MARCH 7, 2006  
7:00 p.m.**

(Following completion of regularly scheduled City Council meeting)

1. The meeting was called to order at 8:32 p.m. Declaration of a quorum present was given.

### **ROLL CALL**

#### **PRESENT**

Chair Marietta Tardibono  
Vice-Chair Nancy Olson  
Trustee Leslie Owens  
Trustee Jimmy Alexander  
Trustee Rodney Nelson  
Trustee Jeff Martinez  
Trustee Stewart Shapiro

#### **ABSENT**

Trustee Bob Wehba  
Trustee Barry Curl

2. Approve the minutes of the Warr Acres Public Works Authority Meeting of February 7, 2006. \*\*\*\*

Motion by Owens, second by Martinez to approve the minutes. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Martinez, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

#### **Motion Passed Unanimously.**

3. Approve payment of claim in the amount of \$58,731.14 to the Bethany-Warr Acres Public Works Authority for the Warr Acres portion of the Joint Trust and Bond Retirement for the month of February, 2006. \*\*\*\*

Motion by Martinez, second by Shapiro to approve the payment of the claim. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Martinez, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

#### **Motion Passed Unanimously.**

4. Adjournment.

Motion by Martinez, second by Shapiro adjourn. Poll vote: Alexander, yea; Owens, yea; Nelson, yea; Martinez, yea; Shapiro, yea; Olson, yea; and Tardibono, yea.

**Motion Passed Unanimously.**

The meeting was adjourned at 8:34 p.m.

Respectfully submitted,

Pamela McDowell-Ramirez  
City Clerk